

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LORENZO CARRUEGA, on behalf
of himself and others
similarly situated,

Plaintiff,

v.

Case No: 2:16-cv-421-FtM-99CM

MP 3 CONSTRUCTION SERVICES,
LLC, a Florida limited
liability company and JOSE
MENDOZA, individually,

Defendants.

OPINION AND ORDER

This matter comes before the Court on plaintiff's Motion for Rule 11 Sanctions (Doc. #30) filed on August 31, 2016. Defendants filed a response (Doc. #34) on September 14, 2016. For the reasons set forth below, the motion is denied.

On September 1, 2016, the Court entered an Opinion and Order denying defendants' Motion for Rule 11 Sanctions without prejudice to filing a renewed motion if it becomes clear that the allegation that plaintiff was an employee had no reasonable basis in law or fact, and that plaintiff knew that Amended Complaint was unsupported. (Doc. #33.) Plaintiff now files his own Rule 11 motion, arguing that defendants' Rule 11 motion was frivolous because the evidence shows that plaintiff was an employee of defendants.

Rule 11 authorizes a court to sanction a party who files a pleading in bad faith for an improper purpose. Pelletier v. Zweifel, 921 F.2d 1465, 1514 (11th Cir. 1991) (citations omitted). “[T]he filing of a motion for sanctions is itself subject to the requirements of the rule and can lead to sanctions.” Smith v. Psychiatric Sols., Inc., 750 F.3d 1253, 1260 (11th Cir. 2014) (quoting Fed. R. Civ. P. 11 advisory committee’s note). “Ordinarily, this does not require a cross-motion for sanctions, since a court is authorized to award fees to a party that successfully opposes a Rule 11 sanctions motion.” Id.

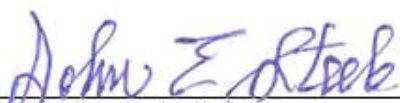
In his opposition to defendants’ Rule 11 motion, plaintiff argued that defendants’ Rule 11 motion was frivolous and requested his attorney’s fees incurred in responding to the motion. (Doc. #24.) Plaintiff’s Rule 11 motion is essentially a cross-motion for sanctions and nothing new presented to the Court supports the imposition of sanctions.

Accordingly, it is hereby

ORDERED AND ADJUDGED:

Plaintiff’s Motion for Rule 11 Sanctions (Doc. #30) is **DENIED**.

DONE and ORDERED at Fort Myers, Florida, this 6th day of January, 2017.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Counsel of Record